REMARKS

<u>Rejection of claims 9, 11, 12 and 19 under 35 U.S.C. §101 as being directed to non-statutory subject matter</u>

In response to the rejection of non-statutory subject matter, applicant has amended the claims to recite computer-readable tangible signal bearing media in claim 9, and has cancelled claim 11 that was directed to transmission media. Applicant respectfully asserts that claims 9, 12 and 19 as amended recite statutory subject matter under 35 U.S.C. §101.

<u>Rejection of claims 1-20 under 35 U.S.C. §102(e) as being anticipated by Hamilton</u>

The Examiner rejected claims 1-20 under 35 U.S.C. §102(e) as being anticipated by Hamilton. Applicant traverses the Examiner's finding of anticipation of the claims as amended. The multicast communication in Hamilton is not in a clustered computer system environment. Hamilton describes a multicast file transfer protocol (MFTP) used in a communications network to improve reliability for short messages. Hamilton does not teach or suggest using a sliding window in a clustered computer environment where the computers cooperate via ordered messages to perform a task.

For the claim limitation of a clustered computer system, the Examiner points to a section of Hamilton (col. 5, lines 55-60) that teaches the invention "may be practiced in distributed computing environments." This section of Hamilton further describes how the invention can be used with micro-computers, hand-helds, mainframes and other computer devices. This section of Hamilton clearly means that the multicast system described in the patent for sending short messages in a reliable manner can be used in any computer system environment, including a distributed computer system. The listed computer environments are configurations of senders and recipients for sending multicast

messages. They do not teach or suggest changing the way prior art clustered computers send ordered messages.

The Examiner's interpretation of Hamilton uses hindsight from Applicant's invention to find anticipation. There is no teaching or suggestion in Hamilton to modify the manner of sending ordered messages in a clustered computer environment. The cited section of Hamilton taken in total with the rest of the patent merely shows that one could change the normal multicast system to one that has greater reliability for short messages in many computer environments, including distributed computing. The cited section would suggest one of ordinary skill in the art that the sender and recipient computer systems used to implement Hamilton's invention could be one of the listed systems.

The cited section of Hamilton does not teach or suggest to one of ordinary skill in the art to modify the normal manner of clustered computing to include a sliding window with ordered messages cooperating to perform a task. The Examiner has used the mere mention of putting the invention of Hamilton into a distributed computing environment to find the whole teaching of changing the way ordered messages are sent in a cluster computer system. This teaching is simply not there. The Examiner has read into Hamilton much more than Hamilton teaches. One with ordinary skill in the art would not see such a complete modification of sending ordered messages without using the Applicant's invention as a guide. The Examiner's rejection relies on hindsight reconstruction to find the claimed invention in Hamilton.

Further evidence of hindsight reconstruction is found from the fact that the Examiner's reconstruction would not work in the other instances of the same paragraph. For example, the Examiner's interpretation of Hamilton would seem to suggest that Hamilton teaches that sending ordered messages with a sliding window would be advantageous in hand held devices. Obviously this conclusion makes little sense. The conclusion was only meaningful in the case of distributed computing. But the only

suggestion that this would be advantageous came from Applicant's disclosure, not from the prior art. Therefore, Applicant respectfully requests the Examiner to withdraw the rejection based on Hamilton and allow the claims to issue.

Further, the Examiner's rejection based on Hamilton requires a leap of logic that is unfounded. Hamilton merely suggests that the described invention can be used in a distributed computing environment. Even if this were taken to mean applying a sliding window in a distributing environment, it does not teach or suggest to put it into a clustered computing environment. Distributing computing does not imply the use of ordered messages. Some types of distributed computing do not use ordered messages. Further, distributed computing does not imply clustered computing. There are other types of distributed computing that are not clustered. The claimed invention requires communicating ordered messages in a cluster of computers. The suggestion in Hamilton that the described invention can be used in a distributed computing environment does not teach or suggest to use ordered messages in a clustered computing environment.

Claim 1 was amended to include the limitation found in former claim 14 and found in claim 4. Claim 1 as amended now includes the limitation of "cluster communication mechanism enforces execution of a plurality of received messages in the order the plurality of received messages were received." The distributed computing suggestion in Hamilton does not teach or suggest enforcing the execution of a plurality of messages in the order they were received. The messages in Hamilton are data and not executable tasks. Further, there is no teaching even based on distributed computing to enforce the execution ordering of messages. Therefore, Applicant respectfully requests the Examiner to withdraw the rejection based on Hamilton and allow the claims to issue.
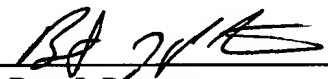
Independent claims 4, 6, and 9 include similar limitations to the limitations described for independent claim 1. Each of the independent claims clearly recite communication of at least one ordered message to a plurality of other computer systems

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in a cluster computer system, where the ordered messages allow a cluster of computers to cooperate to perform a task. For this reason, claims 1, 4, 6 and 9 as amended are allowable over Hamilton, and applicants respectfully request allowance of these claims. Claims 2-3, 5, 7-8, 10, 12, 13, 15-17, and 19 depend on independent claims 1, 4, 6, and 9, which are allowable for the reasons given above. As a result, claim 2-3, 5, 7-8, 10, 12, 13, 15-17, and 19 are allowable as depending on an allowable independent claim.

Conclusion

In summary, Hamilton does not teach, support, or suggest the unique combination of features in applicant's claims presently on file. Therefore, applicant respectfully asserts that all of applicant's claims are allowable. Such allowance at an early date is respectfully requested. The Examiner is invited to telephone the undersigned if this would in any way advance the prosecution of this case.

Respectfully submitted,

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